



Staff Report

DISCUSSION AND DIRECTION OF AN ORDINANCE ADOPTING TIME LIMITS FOR COMPLETION OF CONSTRUCTION

Honorable Mayor and Council Members:

Summary

This matter originally came before the City Council at the September 25, 2007 meeting as a discussion and direction item. From that meeting staff drafted an ordinance that would establish time limits for the completion of construction projects. At the January 8, 2008 City Council meeting the ordinance was presented for consideration and staff was given further direction to refine the terms of the ordinance.

Background

In the course of the January 8, 2008 meeting, and in subsequent conversations with stakeholders, the question was repeatedly asked, "What are the circumstances that prevent applicants from completing their project in a timely manner?" While it is impossible to speak definitively for each case, it appears that generally such projects fall into three categories:

- I. Unmotivated owner-builders
- II. Owner-builders experiencing the construction learning curve
- III. Unmotivated developers

The following are examples of each category:

Case I—Unmotivated owner-builders

The permit for the construction of a second story addition and extensive renovations of the existing structure at 508 Cambridge Street was first issued to the owner-builder on February 3, 1995. That permit was allowed to expire due to inactivity and a replacement permit was issued on July 26, 2000. That permit was allowed to expire for lack of inspections and yet another replacement permit was issued on February 28, 2002. That permit remains in effect to date. The applicant has paid \$1,722.25 in building permit fees and has received 48 inspections. In current dollars (based on a 2008 half-hour inspection fee of \$71.50), that amount would fund 24 inspections. In other words, the owner has received 24 inspections at no cost.

Besides the cost of city services, Case I presents an example of people living in conditions that violate the tenets of fire, and life-safety. While the exterior of the building was finished and had an acceptable appearance, the interior consisted of open studs, exposed wiring, no insulation, and makeshift cooking facilities. The residence housed a family. From 2002 until the present, the

project was urged along by City staff to a code compliant state. What remains to complete the job is insulation and drywall in the garage.

Case II—Owner-builder experiencing the construction learning curve

The project at 1400 El Camino Real originated as a planning application on April 26, 2004 and City staff shepherded it through the entitlement review process upon approval on October 12, 2004. A building permit was applied for on February 28, 2005 and after several iterations, in order to satisfy code compliance, a permit was issued to the property owner as an owner-builder on August 18, 2005. The existing building was the subject of a fire and extensive repairs were required. In addition, the scope of work included the installation of a restaurant.

Based on a construction valuation of \$110,000.00 the building permit fees were \$1049.75. To date there have been 43 inspections. As discussed earlier, the hourly rate for building inspection is \$143.00 and a single inspection is a half-hour—this project “paid for” 15 inspections at the current hourly rate—a more than adequate number under normal circumstances; the excess 28 inspections were essentially “free of charge”. This applicant has leaned heavily on staff for design help and other construction related tasks. It is uncertain when the project will be completed.

Case III—Unmotivated Developer

A building permit to erect a retaining wall and build two homes at 2200 Ralston Avenue was issued on August 12, 2005. While construction is completed, the project has not been finaled and a Certificate of Occupancy has not been issued. This is due to inconsistencies between the approved design and what was built. As a comparison, the new home at 2303 Casa Bona Avenue was completed and finaled in 8 months, and this project has taken 30 months and is still not finished. It is unclear why the developer is not moving affirmatively.

The building permit for a 917 square foot home at 3858 West Naughton Avenue was issued on November 9, 2006. To date the project is not ready for a framing inspection (60% completed). It is uncertain as to the completion date. And given the uncertainty in the housing market, there appears to be no motivation for an expeditious completion.

Discussion

In discussion with stakeholders, there is a consensus for the need for such an ordinance. The current code does not easily address projects that: continue indefinitely, present health and safety concerns, annoy neighbors, represent blight to the neighborhood, and drain City resources. At issue are the terms of the ordinance, especially as they relate to cost recovery for staff’s inspection and administration.

Time Limits

As discussed in the draft ordinance staff report, the construction time limits are tied to a reasonable valuation for the project, which is proposed by the applicant and approved by the building official. Based on that valuation, a construction time limit is established in accordance with the table below. These limits represent a generous amount of time given the scope of work as implied by the valuation. In other words, the more complicated and/or larger projects are given more time to complete as they cost more to build.

Table of Time Limits

Estimated Value of Construction	Construction Time Limit (months)*
\$0 to \$50,000	9 months
\$50,001 to \$100,000	12 months
\$100,001 to \$500,000	18 months
Greater than \$500,000	24 months

* For landscaping work required by the Planning Commission, the applicant shall have an additional 90 days after the date of final inspection approval of the building permit by the Building Division for the main construction project.

Failure to Complete

Taking direction from Council, staff is proposing a revised approach to motivating owners to complete their projects and, at the same time, consider the vagaries of life that may impact completion such as health, finances, marital status, etc. All projects, regardless of size, would be eligible for a six-month extension for any reason. In order to defray both the inspection and administrative cost to the City for the ongoing open permit, a fee of \$1,000.00 would be charged. In addition, a building inspection would be mandatory to address the issue of health and safety violations. As an added incentive, the Council could consider refunding all or a portion of the \$1,000.00 fee, in the event the project is completed in the first sixty days of the extension,

If the project is still not completed after the initial six-month extension, additional extensions could be obtained. The cost of these extensions would be appreciably higher than the first extension due to increased cost to the City for the ongoing work. The proposed table of fees for additional extensions is as follows:

Fees for Additional Extensions

Extensions	Fee
1st 60 day extension	\$1,000.00
2nd 60 day extension	\$1,500.00
3rd 60 day extension	\$2,000.00

There is no appeal process associated with this approach, as the fees relate to the ongoing and escalating cost to the City to monitor the permit; they are not considered penalties.

Application

The ordinance would go into effect 30 days after completion. In order to capture current projects that are ongoing beyond a reasonable time period, the ordinance will also apply to any building permit issued after January 1, 2002, which has not been completed as of the adoption of the ordinance. Those projects would be subject to the same terms of the ordinance as new applicants.

Public Outreach

In the thirty days preceding the effective date of the ordinance, staff will:

1. Create an “Acknowledgement of Deadline” notice to be signed by the owner. The notice would advise the owner of the need to carefully select a contractor, make all design decisions to the extent possible, order all materials requiring lead time in a timely manner, and not to obtain the permit until construction is posed to start.
2. Contact all existing permit holders regarding the new time limit regulations.
3. Provide handouts at the Permit Center counter apprising applicants of the ordinance and offer guidelines on a successful project.
4. Create a notice on the City of Belmont web site.
5. Issue a press release.
6. Create a stamp that will note the deadline for completion on the plans.
7. For larger projects, the deadline will be a topic of the preconstruction meeting.

Fiscal Impact

The fiscal impact of adopting an ordinance limiting construction time periods will be staff's involvement in education and communication of the requirements of the ordinance, monitoring time periods, collection of fees, and preparation of staff reports for hearings. The fee revenue has the potential to offset these costs.

Public Contact

This matter was placed on the agenda and posted as required by the California Government Code.

Recommendation

Staff recommends that the Council discuss the revised terms of the ordinance and provide additional direction as necessary.

Alternatives

1. If it is generally agreed that such an ordinance is appropriate, there are three discreet components of the ordinance that the Council could adjust: the time limits for the completion of a project, the length of time of the extensions, and the fees associated with the initial extension and subsequent extensions.
2. Direct staff to reintroduce the originally drafted ordinance
3. Direct staff to take no action at this time.

Attachments

- A. Photographs of Case I, Case II, and Case III—1 through 9.

Respectfully submitted,

Mark A. Nolfi
Building Official

Carlos de Melo
Community Development Director

Jack Crist
City Manager

Staff Contact:
Mark A. Nolfi, Building Official
(650) 595-7450
mnolfi@belmont.gov